

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

KOZETTE MALAY,

Plaintiff,

2:20-635

Case No. _____

v.

VIRTUOSO SOURCING GROUP, LLC,

Defendant.

_____ /

COMPLAINT

The Plaintiff, Kozette Malay (“Plaintiff” or “Ms. Malay”), hereby sues the Defendant, Virtuoso Sourcing Group, LLC (“Defendant” or “Vituoso”), and alleges:

Parties, Jurisdiction and Venue

1. Plaintiff is an individual and a resident of Fayette County, West Virginia.
2. Defendant is a foreign corporation with its principal place of business in Glendale, Colorado.
3. This is an action brought pursuant to 15 U.S.C. 1692k. Accordingly, this Court has jurisdiction over this action under 28 U.S.C. § 1331 because this is a civil action arising under the laws of the United States.
4. This Court has supplemental jurisdiction over the state law claim in this action under 28 U.S.C. § 1367 because the state law claim is so related to the claim over which this Court has original jurisdiction that they form part of the same case or controversy under Article III of the U.S. Constitution.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this district.

6. All conditions precedent to bringing this action have occurred, been performed, or have been waived.

Common Facts

7. Virtuoso is a company who uses instrumentalities of interstate commerce, including interstate telephone lines, and the mails in a business the principal purpose of which is the collect of debts. In that business, Virtuoso regularly collects and attempts to collect, directly and indirectly, debts owed or due and debts asserted to be owed or due another.

8. Virtuoso was engaged to collect an alleged debt (the “Alleged Debt”) from Plaintiff. The Alleged Debt was allegedly incurred for personal purposes.

9. In attempting to collect the Alleged Debt, Virtuoso caused Ms. Malay’s telephone to ring and engaged Ms. Malay in telephone conversation repeatedly with an intent to annoy, abuse and harass Ms. Malay. Virtuoso called Ms. Malay multiple times per day every day for a period of more than two months straight despite Ms. Malay’s multiple demands for Virtuoso to stop calling her. In numerous instances, Virtuoso called Ms. Malay back-to-back multiples times in a matter of minutes.

10. Virtuoso has called Ms. Malay and spoken with her multiple times. In at least two different calls, Virtuoso made a demand for money but failed to disclose the name and full business address of the person to whom the claim had been assigned for collection, or to whom the claim was owed. Each of these calls constituted a separate violation of § 46A-2-127 of the West Virginia Code.

11. Defendant directed the above-described phone calls to Plaintiff in the Southern District of West Virginia, and Plaintiff received the calls in the Southern District of West Virginia.

COUNT I – VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

12. Plaintiff incorporates and realleges paragraphs 1 through 11 as if stated fully herein.

13. The conduct of Defendant constituted a violation of 15 U.S.C. § 1692d, which prohibits a debt collector from engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person and which specifically prohibits a debt collector from causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass the person.

14. As a direct and proximate result of the wrongful conduct of Defendant, Plaintiff has suffered actual damages, including mental anguish, embarrassment, loss of time, and financial harm.

WHEREFORE, the Plaintiff, Kozette Malay, hereby demands judgment against the Defendant, Virtuoso Sourcing Group, LLC, for actual damages, statutory damages in the amount of \$1,000.00, court costs, reasonable attorney's fees, injunctive relief, and any other further relief this Court deems just and proper.

**COUNT II – VIOLATION OF THE
WEST VIRGINIA CONSUMER CREDIT AND PROTECTION ACT**

15. Plaintiff incorporates and realleges paragraphs 1 through 11 as if stated fully herein.

16. During at least two separate phone conversations with the Plaintiff, the Defendant made a demand that the Plaintiff pay the Alleged Debt but the Defendant failed to clearly

disclose: (a) the name and full business address of the Defendant to whom the Alleged Debt has been assigned for collection and (b) the party to whom the Alleged Debt was owed. The conduct of Defendant constituted a violation of Section 46A-2-127(c) of the West Virginia Code.

17. As a direct and proximate result of the wrongful conduct of Defendant, Plaintiff has suffered actual damages, including mental anguish, embarrassment, loss of time, and financial harm.

WHEREFORE, the Plaintiff, Kozette Malay, hereby demands judgment against the Defendant, Virtuoso Sourcing Group, LLC, for actual damages, statutory damages in the amount of \$1,000.00 for each violation of the West Virginia Consumer Credit and Protection Act, court costs, reasonable attorney's fees, injunctive relief, and any other further relief this Court deems just and proper.

Demand for Attorney's Fees & Costs

Pursuant to 15 U.S.C. § 1692k(a)(3) and Section 46A-5-104, *West Virginia Code*, Plaintiff Kozette Malay hereby demands an award of the attorney's fees and costs incurred in this matter.

Demand for Jury Trial

Plaintiff Kozette Malay hereby demands a jury trial on all claims asserted in this Complaint and otherwise later asserted in this lawsuit.

DATED: September 24, 2020.

Respectfully submitted,

/s/ Joshua A. Mize

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West Virginia Bar No. 13086

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